

Section 8

Rules of G.R.R.C.

Supp. 03-4

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

(Authority: A.R.S. § 41-1051)

ARTICLE 1. RULES OF PROCEDURE

Article 1, consisting of Sections R1-6-101 through R1-6-106 and R1-6-108, adopted effective May 25, 1995 (Supp. 95-2).

Article 1, consisting of Sections R1-6-102 three R1-6-109, repealed effective May 25, 1995 (Supp. 95-2).

Article 1 consisting of Sections R1-6-102 through R1-6-109 adopted effective December 16, 1987.

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ARTICLE 2. DELEGATION AGREEMENTS

Article 2, consisting of Section R1-6-201, adopted effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Sections R1-6-202 three R1-6-206, repealed effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Section R1-6-201, adopted effective May 25, 1995 (Supp. 95-2).

Article 2, consisting of Sections R1-6-202 through R1-6-206, repealed effective May 25, 1995 (Supp. 95-2).

Article 2 consisting of Sections R1-6-202 through R1-6-206 adopted effective March 16, 1988.

Section

R1-6-201.	Appeal of a Delegation Agreement
R1-6-202.	Repealed
R1-6-203.	Repealed
R1-6-204.	Repealed
R1-6-205.	Repealed
R1-6-206.	Repealed

ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS

Article 3, consisting of Section R1-6-301, adopted effective April 3, 1996 (Supp. 96-2).

Section

R1-6-301.	Petition for Council Rulemaking or Review
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ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

Article 4, consisting of Section R1-6-401, adopted effective April 3, 1996 (Supp. 96-2).

Section

R1-6-401.	Appeal of an Economic, Small Business, and Consumer Impact Statement
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ARTICLE 1. RULES OF PROCEDURE

R1-6-101. Definitions

- A. The definitions in A.R.S. § 41-1001 apply to this Chapter.
- B. In this Chapter:
 1. "Agency head" means the chief officer of an agency or another person directly or indirectly purporting to act on behalf or under the authority of the agency head.
 2. "Chair" means the chairperson of the Council.
 3. "Electronic copy" means a document submitted by e-mail.
 4. "Open Meeting Law" means A.R.S. §§ 38-431 through 38-431.09.
 5. "Regular rule" means a rule made according to A.R.S. §§ 41-1021, 41-1022 through 41-1025, 41-1028 through 41-1032, 41-1035, 41-1052, and 41-1055.

Historical Note

Adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-101 renumbered to R1-6-102; new Section R1-6-101 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-102. Meetings

- A. The Chair, in consultation with the Council, shall set regular meeting dates of the Council for each calendar year by the preceding October 31 and shall post notice of each regular meeting according to the Open Meeting Law.
- B. The Council may schedule a special meeting to consider any matter it may consider at a regular meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least 48 hours before the special meeting.
- C. The Council may recess a regular or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-102 renumbered to R1-6-103; new Section R1-6-102 renumbered from R1-6-101 and amended by final rulemaking at 6 A.A.R. 8,

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effective December 8, 1999 (Supp. 99-4).

R1-6-103. Schedule and Filing Deadlines

The Council shall establish for each calendar year, by the preceding October 31, a schedule containing filing deadlines and meeting dates for Council review of:

1. Rules submitted to the Council including new, amended, repealed, or renumbered rules;
2. Rules resubmitted under R1-6-109(1); and
3. Five-year review reports.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-103 renumbered to R1-6-104; new Section R1-6-103 renumbered from R1-6-102 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4).

R1-6-104. Placing a Regular Rule on the Council Agenda

A. To place a regular rule on the Council agenda, an agency shall deliver to the Council office two rule packages prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State. The agency shall ensure that each rule package contains the following items assembled in the following order:

1. Cover letter signed by the agency head specifying:
 - a. The close of record date;
 - b. Whether definitions of terms contained in statutes or other rules and used in the rule are attached;
 - c. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - d. Whether the rule contains a new fee and, if it does, citation of the statute expressly authorizing the new fee;
 - e. Whether the rule contains a fee increase;
 - f. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - g. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - h. A list of all items enclosed.
2. Notice of Final Rulemaking, required by A.A.C. R1-1-602, including the preamble, table of contents for the rulemaking, and text of each rule;
3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
4. Copy of the existing rule if the entire existing rule is not shown as part of the revised text of a rule the agency is amending; and
5. Copy of definitions of terms, used in the rule, that are defined in statute or another rule, if any.

B. In addition to the items specified in subsection (A), an agency shall submit one copy of each of the following:

1. All written comments received by the agency concerning the proposed rule, if any; and
2. Materials incorporated by reference, if any.

C. After a rule is placed on the Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. § 41-1052(C), (D), and (E) and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit the rule package to the Council office under one of the following alternatives:

1. If the agency believes it is likely that the rule package will be approved by the Council without change, it shall submit:
 - a. Four paper copies of the rule-package items listed in subsections (A)(2) and (A)(3) assembled in the order specified in subsection (A);
 - b. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the item in R1-1-105(B)(6) shall be omitted;
 - c. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
 - d. A computer disk that contains the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 - e. A computer disk that contains the item listed in subsection (A)(2) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 2. If the agency is uncertain whether the rule package will be approved by the Council without change, it shall submit:
 - a. One paper copy of the items listed in subsections (A)(2) and (A)(3); and
 - b. A computer disk that contains all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 - c. An electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule.
- D.** After a rule is placed on the Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.
- E.** If it is necessary for a rule to be heard at more than one Council meeting, the agency shall contact the Council staff to learn which rule-package items the agency needs to resubmit for the later meeting.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-104 renumbered to R1-6-108; new Section R1-6-104 renumbered from R1-6-103 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-105. Submitting a Proposed Summary Rule

To submit a proposed summary rule, an agency shall deliver to the Council office one copy of the following items, assembled in the following order and prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:

1. Notice of Proposed Summary Rulemaking, including the preamble, table of contents for the proposed summary rulemaking, and text of the proposed summary rule filed with the Office of the Secretary of State as required by A.R.S. § 41-1027(B); and
2. Statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repeated verbatim in the original rule or proposed summary rule.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25,

1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-105 renumbered to R1-6-109; new Section R1-6-105 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-106. Placing a Final Summary Rule on the Council Agenda

- A.** To place a final summary rule on the Council agenda, an agency shall deliver to the Council office the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. The cover letter described in subsection (B)(1);
 2. Four paper copies of the items listed in subsections (B)(2) through (B)(4), assembled in the order specified in subsection (B);
 3. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the item in R1-1-105(B)(6) shall be omitted;
 4. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
 5. A computer disk that contains all the items listed in subsection (B) and the general and specific statutes authorizing the rule; or
 6. A computer disk that contains the item listed in subsection (B)(2) and an electronic copy of all the items listed in subsection (B) and the general and specific statutes authorizing the rule.
- B.** An agency shall ensure that the rule package contains the following items assembled in the following order:
1. Cover letter signed by the agency head specifying:
 - a. The close of record date;
 - b. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - c. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - e. A list of all items enclosed.
 2. Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary rulemaking, and text of each final summary rule;
 3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2); and
 4. Concise explanatory statement.
- C.** In addition to the items specified in subsection (B), an agency shall submit one copy of all written comments received by the agency concerning the proposed summary rule.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Former Section R1-6-106 renumbered to R1-6-110; new Section R1-6-106 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-107. Submitting Approved Regular Rules

- A.** For a final regular rule placed on the Council's agenda under R1-6-104(C)(2) and approved by the Council or placed on the Council's agenda under R1-6-104(C)(1) and approved by the Council with changes, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. A letter identifying each change made at the direction of the Council. If no changes were directed, no letter is required;
 2. One original and three paper copies of the following items assembled in the following order:
 - a. Agency certificate, required by A.A.C. R1-1-105(B); and
 - b. Items listed in R1-6-104(A)(2) and (A)(3);
 3. Two copies of the receipt required by A.A.C. R1-1-106; and
 4. One computer disk that contains the item listed in R1-6-104(A)(2).
- B.** If an agency is unable to deliver an approved regular rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office and arrange to submit the approved rule at a later date.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Repealed effective May 25, 1995 (Supp. 95-2). New Section adopted effective April 3, 1996 (Supp. 96-2). Former Section R1-6-107 renumbered to R1-6-111; new Section R1-6-107 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-108. Filing Rules Approved by the Council

- A.** If the Council approves an agency rule as submitted under R1-6-104(C)(1) or R1-6-106(A) or if the Council approves an agency rule as submitted under R1-6-104(C)(2) and the agency submits the items required by R1-6-107, the Council shall file the original and two copies of the agency's items; two copies of the agency receipt; and the computer disk, with the Office of the Secretary of State. The Council shall include a written notice specifying the Sections approved and the date of Council approval.
- B.** If the Council approves a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement subject to the agency making changes as directed by the Council, and the agency submits the items required by R1-6-107:
1. Council staff shall verify that each change required by the Council was made and file the items with the Office of the Secretary of State as prescribed in subsection (A).
 2. If an agency submits a revised preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C.** Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents for the rulemaking, rule, economic, small business, and consumer impact statement, or materials incorporated by reference after Council approval.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Section repealed, new Section adopted effective May 25, 1995 (Supp. 95-2). Amended effective April 3, 1996 (Supp. 96-2). Former Section R1-6-108 renumbered to R1-6-112; new Section R1-6-108 renumbered from R1-6-104 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-109. Returned Rules

The Council may vote to return a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement under A.R.S. § 41-1052(B), after identifying the manner in which the returned rule-package item does not meet the standards at A.R.S. § 41-1052(C) through (E).

1. The Council may schedule a date for resubmission in consultation with the agency representative.
2. An agency resubmitting a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement to the Council shall attach to the resubmitted rule-package item a letter that:
 - a. Identifies all changes made in response to the Council's explanation for its return of the rule package item,
 - b. Explains how the changes ensure that the rule package item meets the standards at A.R.S. § 41-1052(C) through (E), and
 - c. Shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
3. In accordance with R1-6-110, an agency representative shall appear at the Council meeting at which the resubmitted preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement is to be considered.

Historical Note

Adopted effective December 16, 1987 (Supp. 87-4). Repealed effective May 25, 1995 (Supp. 95-2). New Section R1-6-109 renumbered from R1-6-105 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-110. Appearance by the Agency

- A. A representative of an agency shall appear at the Council meeting at which the agency rule or five-year review report is to be considered to respond to questions and comments by the Council.
- B. If an agency representative fails to appear at the Council meeting at which the agency rule or five-year review report is considered, the Council shall allow public comment and:
 1. Approve the rule or report,
 2. Reschedule consideration of the rule or report, or
 3. Return the rule or report to the agency.

Historical Note

New Section R1-6-110 renumbered from R1-6-106 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4).

R1-6-111. Oral and Written Comments

- A. Under A.R.S. § 41-1052(G), a person may submit written comments to the Council about an agency rulemaking.
- B. A person may make oral comments about an agency rulemaking at a Council meeting.

- C. A person who makes written or oral comments to the Council shall:
 1. Ensure that the comments relate to a rule scheduled on the Council meeting agenda;
 2. Cite the particular provision of A.R.S. § 41-1052(C) through (E) that is the basis for the Council's authority to consider each issue addressed;
 3. State specifically how each issue relates to the particular provision cited;
 4. Tell what other efforts the person made to communicate with the rulemaking agency about each issue; and
 5. If making oral comments, submit 10 paper copies or one electronic copy of, or a computer disk that contains, any visual aids or written materials supplementing the oral comments to the Administrator of Council staff, who shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking; or
 6. If not making oral comments, submit 10 paper copies or one electronic copy of, or a computer disk that contains, any written comments to the Administrator of Council staff, who shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking.
- D. If materials are submitted under subsection (C)(5) or (C)(6) fewer than six days before the Council meeting, the Council shall consider the reason for the untimely submittal, fairness to the rulemaking agency, and the best interests of the state in determining the action to take under A.R.S. § 41-1052.
- E. The Chair may limit the time allotted to each speaker and preclude repetitious comments.

Historical Note

New Section R1-6-111 renumbered from R1-6-107 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-112. Five-year Review Report

- A. To place a five-year review report on the Council agenda, an agency shall deliver to the Council office two copies of the five-year review report required by A.R.S. § 41-1056. Except as indicated in subsection (B), the agency shall separately discuss and present the following information in the five-year review report in the following order for each rule:
 1. General and specific statutes authorizing the rule;
 2. Objective of the rule;
 3. Effectiveness of the rule in achieving the objective;
 4. Consistency of the rule with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency;
 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
 6. Agency view regarding current wisdom of the rule;
 7. Clarity, conciseness, and understandability of the rule;
 8. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;

9. Estimated economic, small business, and consumer impact of the rule as compared to the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule; and
 10. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule.
- B.** If the information regarding any of the items listed in subsection (A) is identical for any group of rules, the agency shall discuss that information in its five-year review report only once for the group of rules.
- C.** An agency shall attach the following to each copy of a five-year review report:
1. Cover letter, signed by the agency head, that identifies:
 - a. A person to contact for information regarding the report,
 - b. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(E), and
 - c. Any rule that is not reviewed because the Council rescheduled the review of the rule under A.R.S. § 41-1056(C), and
 2. Copy of the rules being reviewed.
- D.** If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, an agency shall attach one copy of the economic, small business, and consumer impact statement for the rule to the five-year review report.
- E.** After a five-year review report is placed on the Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit to the Council office one paper copy of the five-year review report and one electronic copy of or a computer disk that contains the items listed in subsections (A) and (C) and the general and specific statutes authorizing the rules reviewed.
- F.** After a five-year review report is placed on the Council agenda, an agency may have the report moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.

Historical Note

New Section R1-6-112 renumbered from R1-6-108 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-113. Rescheduling a Five-year Review Report

To request that a five-year review report be rescheduled under A.R.S. § 41-1056(C), an agency head shall submit a letter to the Chair not more than 90 days before the report is due that includes the following information:

1. The Title, Chapter, and Article of the rules for which rescheduling is sought;
2. Whether the rules were initially made or substantially revised within the last two years; and
 - a. If substantially revised:
 - i. A description of the revisions,
 - ii. Why the revisions are believed to be substantial, and

- iii. The date on which the rules were published in the Register by the Office of the Secretary of State; or
- b. If initially made, the date on which the rules were published in the Register by the Office of the Secretary of State.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

ARTICLE 2. DELEGATION AGREEMENTS

R1-6-201. Appeal of a Delegation Agreement

- A.** Under A.R.S. § 41-1081(F), a person who appeals an agency decision to enter into a delegation agreement shall deliver to the Council office one original written request signed by the person submitting the appeal and eight paper copies or one electronic copy of, or a computer disk that contains, the request. The person submitting the appeal shall include the following in the request:
1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal;
 2. The name and address of each agency and each political subdivision entering into the delegation agreement;
 3. The name, address, and fax and telephone numbers of the person filing the appeal;
 4. The name of the person being represented by the person filing the appeal;
 5. The subject matter of the delegation agreement; and
 6. The reasons why the person is objecting to the delegation agreement and filing the appeal.
- B.** The head of an agency whose delegation agreement is being appealed shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains the following:
1. A memorandum that lists the date the delegating agency gave written notice of the decision to enter into the delegation agreement and the dates of all public proceedings regarding the delegation agreement;
 2. The name, address, and fax and telephone numbers of each agency and each political subdivision contact person;
 3. The delegation agreement; and
 4. A written summary prepared by the agency, responding to all oral or written comments received by the agency regarding the delegation agreement.
- C.** The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following Council receipt of the appeal. The agency head shall deliver to the Council office the information and documents listed in subsection (B) no later than 5:00 p.m. on the third business day following notification of the appeal by the Council.
- D.** Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the delegating agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If an appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E.** After the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a written letter to the delegating agency head and person filing the appeal

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that specifies the reasons for the approval or disapproval and the date of Council action.

Historical Note

Adopted effective May 25, 1995 (Supp. 95-2). Amended by final rulemaking at 6 A.A.A. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-202. Repealed

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2).

R1-6-203. Repealed

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2).

R1-6-204. Repealed

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2).

R1-6-205. Repealed

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2).

R1-6-206. Repealed

Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).
Repealed effective May 25, 1995 (Supp. 95-2).

ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS

R1-6-301. Petition for Council Rulemaking or Review

- A.** A person may petition the Council under A.R.S. § 41-1033(A) for a:
1. Rulemaking action relating to a Council rule, including making a new rule or amending or repealing an existing rule; or
 2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B.** To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office a written petition including the following information:
1. Name, address, telephone number, and fax number, if any, of the person submitting the petition;
 2. Name of any person represented by the person submitting the petition;
 3. If requesting a rulemaking action:
 - a. Statement of the rulemaking action sought, including the A.A.C. citation of all existing rules, and the specific language of a new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
 4. If requesting a review of an existing practice or substantive policy statement:
 - a. Subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule; and
 5. Dated signature of the person submitting the petition.

- C.** A person may submit supporting information with a petition, including:
1. Statistical data; and
 2. A list of other persons likely to be affected by the rule-making action or the review, with an explanation of the likely effects.
- D.** The Council shall send the person submitting a petition a written response within 60 calendar days of the date the Council receives the petition.

Historical Note

Adopted effective April 3, 1996 (Supp. 96-2). Former Section R1-6-301 renumbered to R1-6-302; new Section R1-6-301 adopted by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

R1-6-302. Appeal of an Existing Agency Practice or Substantive Policy Statement

- A.** A person appealing an agency's final decision regarding a petition for review of an existing agency practice or substantive policy statement filed under A.R.S. § 41-1033(B) shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains, the following:
1. A request signed by the person submitting the appeal that includes the following:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal;
 - d. Subject matter of the existing agency practice or substantive policy statement being appealed; and
 - e. Reasons why the existing agency practice or substantive policy statement constitutes a rule.
 2. The petition requesting a review of the agency's existing practice or substantive policy statement; and
 3. The agency's written decision that is being appealed.
- B.** The Council shall notify the affected agency head of an appeal of an existing agency practice or a substantive policy statement by 5:00 p.m. of the business day following Council receipt of the appeal. The agency shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C.** The head of an agency whose final decision is being appealed shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains, the following:
1. A memorandum that includes the following:
 - a. Date the agency gave written notice of its decision under A.R.S. § 41-1033(A);
 - b. Name, address, telephone number, and fax number, if any, of each agency contact person; and
 - c. Reasons why the agency believes that the existing agency practice or substantive policy statement does not constitute a rule.
 2. The existing agency practice or substantive policy statement being appealed; and
 3. If a petition other than that of the appellant was filed with the agency requesting a review of the same existing practice or substantive policy statement being appealed:
 - a. The other petition, and
 - b. The agency's written decision regarding the other petition.

- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within seven calendar days after the Council decides whether the agency practice or substantive policy statement constitutes a rule, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision and the reasons for and date of the Council decision.

Historical Note

New Section renumbered from R1-6-301 and amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).

ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement

- A. A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains, the following:
 - 1. A request signed by the person submitting the appeal, citing the rule or rules being appealed and including the following:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal, if applicable;
 - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
 - e. Why the person appealing believes either that:
 - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; or
 - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule.
 - 2. A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
 - 3. The data used by the person appealing to support the reasons listed under subsection (A)(1)(e).

- B. The Council shall notify the affected agency head of an appeal of the economic impact of a rule by 5:00 p.m. of the business day following Council receipt of the appeal. The affected agency head shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C. The head of an agency whose final decision is being appealed shall deliver to the Council office one original and eight paper copies or one electronic copy of, or a computer disk that contains, the following:
 - 1. A memorandum that includes the following:
 - a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
 - b. Name, address, telephone number, and fax number, if any, of each agency contact person;
 - c. Reasons why the agency believes that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; or
 - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; and
 - d. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate.
 - 2. A copy of the rule being appealed; and
 - 3. The agency's written summary prepared and published as required by A.R.S. § 41-1056.01(C).
- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within seven calendar days after the Council decides whether either or both of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

Historical Note

Adopted effective April 3, 1996 (Supp. 96-2). Amended by final rulemaking at 6 A.A.R. 8, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 5538, effective December 2, 2003 (Supp. 03-4).